

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	No. 07 CR 50049
v.)	
)	Judge P. Michael Mahoney
John M. Volpentesta)	

MOTION TO RECONSIDER DETENTION ORDER

Comes now John Volpentesta by the Federal Defender Program, Terence F. MacCarthy, Executive Director , by Paul E. Gaziano, one of his assistants and moves this Honorable Court to enter an order reconsidering the Order of Detention and releasing defendant on bond under certain conditions and in support, states:

1. That on December 18, 2007, this Honorable Court entered an order of detention pending trial in this cause.
2. In that order the court found that "There is a serious risk that defendant will not appear." The Court further found in part that "defendant has an unclear residence, he is unemployed, he has no assets...he has an active bench warrant..."
3. That since the entry of that order new information exists that was unavailable to defendant at the time of the hearing, to wit:
 - a. Debi Jones 1409 Myra Ave. Janesville, Wisconsin 53548, tel. no 608-728-2878 has stated that she will serve as a Third-party custodian of

defendant and that defendant may reside at her home, further she will accommodate this Court and the Federal Pre-trial services by installing a ground line phone so that defendant can be placed on electronic monitoring.

- b. That Marcus Cox, Ms. Jones' fiancée will provide employment to defendant.
 - c. That the bench warrant issued by the State of Wisconsin has been vacated.
 - d. That defendant has been able to secure the assistance of counsel in certain civil matters pending in Mc Henry County, Il and will be able to rectify the body attachment issued in a civil case in that County; on information and belief that attachment was issued for an alleged failure to appear at a citation proceeding the service of the notice of that citation having been accomplished not by personal service but rather by substituted abode service.
 - e. That the discovery in this case is voluminous and very detail oriented; that the continued incarceration of defendant impairs his ability to effective assistance of counsel pursuant to the Sixth Amendment of the United States Constitution.
4. That the new information provided to the Court supplies to the Court reason to reconsider the continued detention of defendant and to order his release on bond subject to conditions.

Wherefore Defendant prays that this Honorable Court enter an order

reconsidering the Order of Detention and releasing defendant on bond under reasonably imposed conditions.

Dated this 5th day of March, 2008.

Respectfully submitted;
FEDERAL DEFENDER PROGRAM
Terence F. MacCarthy
Executive Director

By: ___/s/_____
Paul E. Gaziano
Attorneys for Defendant
John M. Volpentesta

PAUL E. GAZIANO
FEDERAL DEFENDER PROGRAM
202 W. State Street - Suite 600
Rockford, IL 61101
(815) 961-0800

NOTICE OF FILING

TO: Mr. Scott Verseman
Assistant U.S. Attorney
308 West State Street, Suite 300
Rockford, IL 61101

PLEASE TAKE NOTICE that I have this 5th day of March, 2008, caused to be filed in the Office of the United States District Court, Northern District of Illinois, Western Division, via E-File the Defendant Volpentesta's Motion to Reconsider Detention Order in the above entitled cause and hereby serve you with a copy of same.

/s/

PAUL E. GAZIANO
FEDERAL DEFENDER PROGRAM
202 W. State Street - Suite 600
Rockford, IL 61101
(815) 961-0800

PROOF OF SERVICE

STATE OF ILLINOIS)
) SS.
COUNTY OF WINNEBAGO)

The undersigned, being first duly sworn on oath, deposes and says that he/she served the Defendant Volpentesta's Motion to Reconsider Detention and this Notice upon the above via E-File on the 5th day of March, 2008

/s/Paul E. Gaziano

SUBSCRIBED AND SWORN to before
me this 5th day of March, 2008.

/s/Karen Lemke
Notary Public